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Before the
Federal Communications Commission
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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In the Matter of)
)
Request of the North American) DA No. 97-2234
Numbering Council for Clarification) CC 92-237
of the Term "Technology Neutral")
)

COMMENTS OF OMNIPPOINT COMMUNICATIONS, INC.

Omnipoint Communications, Inc. ("Omnipoint"), by its attorneys, files these comments on the issues raised in letters sent to the Commission by the North American Numbering Council ("NANC") dated August 22, 1997.¹ Omnipoint has been an active proponent for reform of the current numbering allocation and decision making. Through its representative, Omnipoint is a member of the North American Numbering Council ("NANC"). Finally, and most importantly, Omnipoint is a significant new entrant in broadband Personal Communications Systems ("PCS"); Omnipoint and its affiliates are small business licensees operating broadband PCS systems in the New York Major Trading Area and several other Basic Trading Areas, and hold PCS licenses to serve over 96.5 million people in the United States.

The ability to obtain sufficient numbering resources quickly and fairly is absolutely critical to Omnipoint, as it is to every new entrant in the telecommunications market. Omnipoint applauds the Commission for its effort at this time to provide guidance on the meaning of "technology neutral", and hopes that the Commission agrees that any methodology employed to address area code depletion must provide adequate

¹ See FCC Public Notice, DA 97-2234 (rel. Oct. 20, 1997).

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numbering resources to all carriers, including Commercial Mobile Radio Services ("CMRS") carriers, to protect the competitive marketplace. As both Congress and the Commission have found, "ensuring fair and impartial access to numbering resources is a critical component of encouraging a robustly competitive telecommunications market."²

Omnipoint would like to address the NANC's recommendation for the release of NPAs in the matter of the Pennsylvania Public Utilities Commission's ("PaPUC") request for three area codes to be used as so-called "transparent area codes." As NANC's August 22, 1997 letter states, the NANC's proposal that the NPAs be released on an experimental basis was expressly subject to several conditions, including "that there be an adequate provision of numbers for carriers currently disadvantaged in their ability to obtain number resources or that are technically incapable of utilizing 'transparent overlay codes'."³ The NANC voting was expressly based upon PaPUC's implementation of those conditions. Nevertheless, because the NANC did not reach any consensus on the issue, NANC forwarded the issue to the Commission for decisions without a NANC recommendation. Furthermore, on September 16, 1997, four voting NANC members (three of whom had voted "for" the release of the NPAs requested by PaPUC, including Omnipoint, and one member who had abstained from that vote) informed the Commission in writing that they now opposed the release of the three NPAs requested by PaPUC.⁴ As the September 16 letter states, those members are "concerned that the

² Second Report and Order and Memorandum Opinion and Order, CC Dkt. No. 96-98, et al., FCC 96-333, at ¶ 261 (rel. Aug. 8, 1997) (subsequent history omitted).

³ The other conditions to the proposed experimental release of NPAs were 1) that Pennsylvania convert to local number portability as soon as available; and 2) that the NPAs be recovered within three months of the transition to local number portability.

⁴ Letter from Diane E. Little, Sprint Spectrum, L.P., Anna Miller, Omnipoint, Lawrence Krevor, Nextel Communications and Mark Golden, PCIA, to Richard

(Footnote continued to next page)

[August 19 NANC] vote was improperly interpreted to reflect advice in favor of the transparent overlay,” and that “no evidence has been presented to conclude that a transparent overlay will in fact reduce the pressure on the number supply in Pennsylvania and guarantee CMRS providers full access to number resources to meet their demands.” Furthermore, these NANC members are concerned that “no provision has been made for the assignment of codes in the event that [the transparent overlay] does not free up adequate number resources and non-LNP capable carriers, including CMRS, cannot obtain sufficient numbers to meet demand.”⁵ These are the very issues at the heart of the issue of technological neutrality.

Omnipoint believes that there are several fundamental elements necessary for any area code depletion methodology to be deemed "technology neutral." First, and most importantly, any area code depletion methodology must guarantee that every carrier will have full and complete access to the number resources that are necessary to meet its demands. Furthermore, such access must be assured to occur on a nondiscriminatory and timely basis. In particular, any proposed methodology based solely on number pooling under an NXX-X Location Routing Number ("LRN") scheme, prior to the adoption of local number portability ("LNP") by all carriers, cannot satisfy technological neutrality. Such a methodology cannot provide any number resources to CMRS carriers and some other carriers because of technological limitations, and so would leave all such carriers at a competitive disadvantage in the marketplace.

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Metzger, Chief, Common Carrier Bureau, FCC (Sept. 16, 1997). Omnipoint attaches a copy of the letter with these comments and asks that the Commission make it a part of the record in this matter.

⁵ To this date, there has been no mandate from the PaPUC that unused 10,000 block NXXs be returned to the numbering pool, and there are no assurances whatsoever that CMRS will continue to receive full NXX blocks.

Omnipoint suggests, however, that the Commission allow implementation of methodologies that do not satisfy the technological neutrality standard *provided that* it is implemented concurrently with one of the *technologically neutral* short-term technical alternatives to NXX exhaust forwarded to the NANC by the Carrier Liaison Committee ("CLC") Ad Hoc Committee on NXX Exhaust and subsequently forwarded to the Commission.⁶ In particular, Omnipoint suggests that the Commission require in any such instance that an Expanded NPA Overlay⁷ be implemented covering a region no smaller than the geography covered by any NPA(s) for which non-technologically neutral methodologies are proposed and possibly covering a larger, multi-state region encompassing, along with such NPA(s), commercially related regions. (As described in the CLC Report, an Expanded NPA Overlay can be implemented covering regions defined by groups of Basic Trading Areas ("BTAs") and/or Major Trading Areas ("MTAs")).

In Pennsylvania, for example, the Expanded NPA Overlay could cover all of New Jersey, in which every NPA currently is in jeopardy and, in particular, the 201 NPA currently is in exhaust, with no new orders for NXXs being accepted until February 1998 at the earliest. Because NXXs from any Expanded NPA Overlay would be available for assignment equally to all carriers on a first-come-first-served basis, the requirement for an Expanded NPA Overlay in conjunction with any non-technologically neutral methodology would enable all carriers to gain access to the number resources that are necessary to meet their demands. Furthermore, to the extent that it is within the

⁶ Carrier Liaison Committee ("CLC") Ad Hoc Committee on NXX Exhaust, Short-term Technical Alternatives to NXX Exhaust, (presented to NANC July 22, 1997; revised Sept. 2, 1997).

⁷ See *id.* § 2.3.

capabilities of all affected carriers, Omnipoint suggests that the Commission waive the requirement for ten-digit dialing within the regions covered by the NPAs subject to exhaust.

Omnipoint also suggests that the Commission rule that any States that demand that carriers provide information relating to current and/or anticipated uses of NXXs be required to hold any such information as confidential, as it reveals fundamental aspects of a new entrant carrier's business plan and trade secrets in a highly competitive environment.


The lack of adequate number resources is certain to have detrimental consequences on any carrier. Without a concurrent alternative, such as the Expanded NPA Overlay, no methodology should be allowed to proceed if it cannot guarantee every carrier with full and complete access to the number resources it demands on a nondiscriminatory and timely basis. Further, without a concurrent alternative, carriers that are technologically incapable of taking advantage of such methodologies, such as all CMRS carriers, will lack the number resources they require to compete effectively. Ultimately, this will frustrate the goals for vibrant and speedy local telecommunications competition.

In sum, Omnipoint asks that the Commission require implementation of the Expanded NPA Overlay concurrently with any non-technologically neutral methodology.

Respectfully submitted,

OMNIPOINT COMMUNICATIONS, INC.

By:


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Date: October 29, 1997



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September 16, 1997

Richard Metzger
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

Re: NANC Reconsideration of Pennsylvania PSC "Transparent Overlay," and Request that FCC Not Release NPA Codes

Dear Mr. Metzger:

We request that the Federal Communications Commission not release the three NPA codes requested by the Pennsylvania Public Service Commission to be used for a so-called "transparent overlay." The North American Numbering Council ("NANC") will be asked to reconsider the issue at its next meeting on September 23, 1997, and we expect a clear majority vote against releasing the codes.

In response to the NANC Chairman's July 23, 1997 correspondence about issues surrounding the Pennsylvania request, former Bureau Chief Gina Keeney wrote the Director of NANPA Administration asking to delay assignment of the requested NPA codes "until the NANC has made a recommendation to the Commission on this issue [of the proposed transparent overlay], and the Commission has acted on this recommendation." The NANC Chairman then wrote Ms. Keeney on August 22, 1997 about the votes taken by NANC on August 18 and 19, 1997 concerning the proposed transparent overlay and the request for the three NPA codes.

While we believe that the NANC Chairman's correspondence generally reflects CMRS providers' very serious concerns about and objections to the transparent overlay and its anticompetitive effects and adverse technological impacts on CMRS, we are concerned that the vote was improperly interpreted to reflect advice in favor of the transparent overlay. Moreover, in a second letter of August 22, 1997 to Ms. Keeney, the NANC chairman requested guidance from the FCC on the definition of "technical neutrality." In the absence of industry consensus or FCC guidance on the technical neutrality of NPA Relief Plans which require a Local Number Portability (LNP) infrastructure, we cannot support the transparent overlay or the release of the three NPA codes.


Prior to the August 19 vote on the Pennsylvania request for "transparent area codes," assurances were made that CMRS providers will not have to participate in the transparent overlay and that number resources will continue to be made fully available to CMRS providers. However, no evidence has been presented to conclude that a transparent overlay will in fact reduce the pressure on the number supply in Pennsylvania and guarantee CMRS

providers full access to number resources to meet their demands. In addition, there are no assignment guidelines or other administrative procedures in place to support assignment of resources where some carriers are subject to one relief measure (transparent overlay) and other carriers to another (traditional assignment), and while it has been claimed that the Pennsylvania transparent overlay is just an "experiment," no provision has been made for the assignment of codes in the event that it does not free up adequate number resources and non-LNP capable carriers, including CMRS, cannot obtain sufficient numbers to meet demand.

Given that the circumstances described above are different from the conditions purportedly guaranteed by the Pennsylvania Commission, we do not support the release of three transparent overlay NPA codes to Pennsylvania and request reconsideration of this issue by NANC.

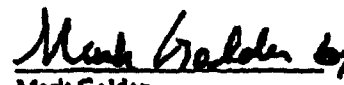
Again, NANC will be asked to reconsider the transparent overlay issue, and it is our intention to vote clearly against the release of the three NPA codes.

Very truly yours,


Diane E. Little
Sprint Spectrum, L.P.

Anna Miller
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Lawrence Krevor
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Given that the circumstances described above are different from the conditions purportedly guaranteed by the Pennsylvania Commission, we do not support the release of these transparent overlay NPA codes to Pennsylvania and request reconsideration of this issue by NANC.

Again, NANC will be asked to reconsider the transparent overlay issue, and it is our intention to vote clearly against the release of the three NPA codes.

Very truly yours,


Diana E. Little
Sprint Spectrum, L.P.


Anne Miller
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